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POSTAL SERVICE

39 CFR Parts 261, 262, and 265

Records and Information

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service is amending its regulations concerning records and information management for administrative purposes, to clarify existing text, and to update and add definitions.

DATES: These regulations will be effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Matthew J. Connolly, Chief Privacy Officer, 202-268-2608.

SUPPLEMENTARY INFORMATION:

Overview:

The Postal Service is amending 39 CFR parts 261, 262, and 265 to delineate more clearly the responsibility for managing postal records and ensuring compliance with the Freedom of Information Act (FOIA). See 5 U.S.C. 552; 39 U.S.C. 410(c). In general, these modifications should promote the coordination of activities among the Officers, Public Liaisons, Coordinators, and

Records Custodians tasked with FOIA compliance, and facilitate the response to information requests by FOIA Requester Service Centers (RSCs).

Records and Information Management (Part 261):

As required by 5 U.S.C. 552(a)(1), the amendments to part 261 provide descriptions of the Postal Service's central and field organization for FOIA processing. Specifically, the amendments clarify the position of the Postal Service's Privacy and Records Office within the General Counsel's Office. As further required by 5 U.S.C. 552(a)(6)(B)(ii), the amendments also describe the Postal Service's FOIA Public Liaisons and their responsibilities to requesters through the Postal Service's FOIA Requester Service Centers.

Records and Information Management Definitions (Part 262):

As required by 5 U.S.C. 552(a)(6)(B), the amendments to part 262 provide further descriptions of the Postal Service's central and field organization for FOIA processing. Specifically, the amendments describe various officials involved in FOIA processing and their responsibilities.

Release of Information (Part 265):

As required by 5 U.S.C. 552(a)(1), the amendments to part 265 provide descriptions of the established places at which, the employees from whom, and the methods whereby the public may obtain information, make submittals or requests, and obtain decisions regarding FOIA requests. Specifically, the amendments describe how and to whom a FOIA request must be submitted, and clarify that the regulations must be read in conjunction with the text of the FOIA,

the Fee Schedule and Guidelines published by the Office of Management and Budget, and Postal Service Handbook AS-353, *Guide to Privacy, the Freedom of Information Act, and Records Management*. FOIA requests must now be sent to the appropriate FOIA Requester Service Center (RSC), as detailed in the regulations. A request that is not initially submitted to the appropriate FOIA RSC will be deemed to have been received by the Postal Service for purposes of computing the time for response at the time that it is actually received by the appropriate FOIA RSC or at the time the request is referred to the appropriate records custodians by a FOIA RSC, but in any case a request will be deemed to have been received no later than 10 days after the request is first received by a FOIA RSC.

List of Subjects

39 CFR Part 261

Archives and records.

39 CFR Part 262

Archives and records.

39 CFR Part 265

Administrative practice and procedure, Courts, Freedom of information, Government employees.

For the reasons stated in the preamble, the Postal Service amends 39 CFR chapter I, subchapter D as follows:

PART 261 – [AMENDED]

1. The authority citation for 39 CFR part 261 continues to read as follows:

Authority: 39 U.S.C. 401.

2. Revise § 261.1 to read as follows:

§ 261.1 Purpose and scope.

Under 39 U.S.C. 410, as enacted by the Postal Reorganization Act, the U.S. Postal Service is not subject to the provisions of the Federal Records Act of 1950, or any of its supporting regulations which provide for the conduct of records management in Federal agencies. The objective of parts 261 through 268 of this chapter are to provide the basis for an organization-wide records and information management program affecting all Postal Service organizational components having the custody of any form of information and records.

3. Revise § 261.2 to read as follows:

§ 261.2 Authority.

(a) As provided in 39 U.S.C. 401(5), the Postal Service has the power to acquire property it deems necessary or convenient in the transaction of its business and to hold, maintain, sell, lease or otherwise dispose of such property.

(b) Under § 262.2 of this chapter, the Postal Service Privacy and Records Office, located under the Associate General Counsel and Chief Ethics and Compliance Officer, is responsible for the retention, security, and privacy of Postal Service records and is empowered to authorize the disclosure of such records and to order their disposal by destruction or transfer. Included is the authority to issue records management policy and to delegate or take appropriate

action if that policy is not adhered to or if questions of interpretation of procedure arise.

4. Revise § 261.4 to read as follows:

§ 261.4 Responsibility.

(a) The Chief Freedom of Information Act (FOIA) Officer, whose duties are performed by the Associate General Counsel and Chief Ethics and Compliance Officer, is responsible for:

- (1) Overseeing Postal Service compliance with the FOIA.
- (2) Making recommendations to the Postmaster General regarding the Postal Service's FOIA program.
- (3) Monitoring and reporting on FOIA implementation and performance for the Postal Service.

(b) The Chief Privacy Officer, under the Associate General Counsel and Chief Ethics and Compliance Officer, is responsible for administering records and information management policies, and the privacy of information programs, and for the compliance of all handbooks, directives, and instructions in support of these policies and programs.

(c) The Deputy Chief FOIA Officer, under the Privacy and Records Office, administers the Postal Service release of information program with the assistance of FOIA Coordinators in Headquarters departments and area and district offices.

(d) Freedom of Information Act Public Liaisons are responsible for:

- (1) Managing FOIA Requester Service Centers (RSCs).
- (2) Receiving concerns of requesters about the service provided by the FOIA RSC following an initial response.
- (3) Ensuring a service-oriented response to requests and FOIA-related inquiries.
- (4) Reporting to the Chief FOIA Officer on their activities.

(e) Freedom of Information Act Requester Service Centers are responsible for:

- (1) Facilitating communication between the Postal Service and FOIA requesters.
- (2) Providing information to requesters concerning the status of FOIA requests and information about responses to such requests.

(f) Freedom of Information Act Coordinators fill an ad hoc position located within each Headquarters department, and Area and District office, and are responsible for:

- (1) Coordinating and tracking FOIA requests referred to or received by their functional or geographical area.
- (2) Providing procedural guidance, upon request, to records custodians.

- (3) Assisting the Deputy Chief FOIA Officer with national reporting activities, such as annual reporting of local FOIA and Privacy Act activities.

(g) Records Custodians are responsible for ensuring that records within their facilities or organizations are managed according to Postal Service policies. Vice presidents or their designees are the custodians of records maintained at Headquarters. In the field, the Records Custodian is the head of a Postal Service facility such as an area, district, Post Office, or other Postal Service installation or designee that maintains Postal Service records. Senior medical personnel are the custodians of restricted medical records maintained within Postal Service facilities. The Custodian of Employee Assistance Program (EAP) records is the Postal Service counselor, a supplier, or the public health service, whichever provided the services.

(h) Postal Service managers are responsible for administering records and information management policies and for complying with all handbooks, directives, and instructions in support of this policy.

PART 262 – [AMENDED]

5. The authority citation for 39 CFR part 262 continues to read as follows:

Authority: 5 U.S.C. 552, 552a; 39 U.S.C. 401.

6. Revise § 262.2 to read as follows:

§ 262.2 Officials.

(a) *Chief Privacy Officer.* The Chief Privacy Officer (CPO) is responsible for the issuance of policy on the protection of privacy and the release of Postal Service records. The CPO has the power to authorize the disclosure of such records. Additionally, the CPO is responsible for establishing procedures and guidelines to ensure that record management practices are in compliance with the Privacy Act and FOIA. The CPO directs the activities of the Privacy and Records Office and may also delegate or take appropriate action if policies are not adhered to or if questions of interpretation or procedures arise.

(b) *Deputy Chief FOIA Officer.* The Deputy Chief FOIA Officer, under the Privacy and Records Office, administers the Postal Service release of information program and has the power to authorize the disclosure of records. The Deputy Chief FOIA Officer oversees FOIA Requester Service Centers (RSCs).

(c) *Records Custodian.* The Records Custodian is the postmaster or other head of a facility such as an area vice president, district manager, or head of a postal installation or department who maintains Postal Service records. Vice presidents are the custodians of records maintained at Headquarters. Senior medical personnel are the custodians of restricted medical records maintained within postal facilities.

(d) *Information System Executive*. This is the Postal Service official, usually a vice president, who prescribes the existence of and the policies for an information system.

(e) *Records Office*. The Records Office is responsible for the issuance of policy on the maintenance and disposition of Postal Service records and information, and to delegate or take appropriate action if such policy is not adhered to or if questions of interpretation or procedure arise.

PART 265 – [AMENDED]

7. The authority citation for 39 CFR part 265 continues to read as follows:

Authority: 5 U.S.C. 552; 5 U.S.C. App. 3; 39 U.S.C. 401, 403, 410, 1001, 2601.

8. Revise § 265.1 to read as follows:

§ 265.1 Purpose and scope.

(a) This part contains the regulations of the Postal Service relating to the availability to the public of Postal Service records. Included in this part are the regulations which implement the Freedom of Information Act (FOIA), 5 U.S.C. 552, insofar as it applies to the Postal Service. These rules should be read in conjunction with the text of the FOIA and the Fee Schedule and Guidelines published by the Office of Management and Budget. Additionally, Postal Service Handbook AS-353, *Guide to Privacy, the Freedom of Information, and Records Management*, contains information for the public about submitting FOIA requests

and the specific procedures used by the Postal Service when responding to FOIA requests. This resource is available at <http://www.usps.com>.

(b) Official records of the Postal Service made available pursuant to the requirements of the Act shall be furnished to members of the public as prescribed by this part.

9. Revise § 265.3 to read as follows:

§ 265.3 Responsibility.

(a) *Records custodian.* Official records are in the custody of the Postmaster or other head of a facility or department at which they are maintained, as defined at § 261.4(c) of this chapter. These custodians are responsible for responding in the first instance to requests from members of the public for Postal Service records.

(b) *Deputy Chief FOIA Officer.* The Deputy Chief FOIA Officer, under the Privacy and Records Office is responsible for the overall administration of this part, including the issuance of detailed instructions to custodians.

(c) *General Counsel.* The General Counsel decides timely appeals authorized by this part.

10. Revise § 265.4 to read as follows:

§ 265.4 Inquiries.

Inquiries regarding the availability of Postal Service records must be directed to the appropriate Freedom of Information Act (FOIA) Requester Service Center (RSC). A description of FOIA RSCs is available at <http://www.usps.com>. If the appropriate FOIA RSC is not known, inquiries should be directed to the FOIA Requester Service Center, Privacy and Records Office, U.S. Postal Service, 475 L'Enfant Plaza SW, Washington, DC 20260, telephone (202) 268-2608.

11. In § 265.7, revise the section heading and paragraphs (a)(1) and (2) to read as follows:

§ 265.7 Procedure for submitting a FOIA request.

(a) *Submission of requests--(1) Form and content of request.* To permit expeditious handling and timely response in accordance with the provisions of this part, a request to inspect or to obtain a copy of an identifiable Postal Service record must be in writing and bear the caption "Freedom of Information Act Request" or otherwise be clearly and prominently identified as a request for records pursuant to the Freedom of Information Act. A request must be clearly and prominently identified as such on the envelope or other cover. Requests for records, submitted by the public that are not labeled as Freedom of Information Act requests will be handled as FOIA requests when received by the appropriate Requester Service Center in accordance with paragraph (b) of this section, but they may be delayed in reaching the appropriate Requester Service Center. A Freedom of Information Act request must identify the record sought as completely as possible, by name, description, or subject matter, and be sufficient to permit the custodian to locate it with a reasonable amount of effort. The

request may state the maximum amount of fees for which the requester is willing to accept liability without prior notice. See paragraph (f)(2) of § 265.8. If no amount is stated, the requester will be deemed willing to accept liability for fees not to exceed \$25.

(2) *To whom submitted.* A request must be submitted to the appropriate Freedom of Information Act (FOIA) Requester Service Center (RSC). If the FOIA RSC is not known, an inquiry should be directed to the FOIA Requester Service Center, Privacy and Records Office, U.S. Postal Service, 475 L'Enfant Plaza, SW, Washington, DC 20260, telephone (202) 268-2608. The FOIA RSC will either process the request or refer the request to the appropriate component or records custodians. The FOIA RSC will advise the requester of any such referral. A request that is not initially submitted to the appropriate FOIA RSC will be deemed to have been received by the Postal Service for purposes of computing the time for response in accordance with paragraph (b) of this section at the time that it is actually received by the appropriate FOIA RSC or at the time the request is referred to the appropriate records custodians by a FOIA RSC, but in any case a request will be deemed to have been received no later than 10 days after the request is first received by a FOIA RSC. If a request seeks records maintained at two or more facilities, the custodian shall be deemed to be the next senior common supervisor of the heads of the facilities, e.g., district manager, area vice president. The Records Office is deemed to be the custodian, for purposes of this part, in all instances in which a request is for a listing of postal employees. See paragraph (a)(6) of § 265.6.

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Stanley F. Mires,

Attorney, Federal Compliance.

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